ORDINANCE NO. 13, SERIES 1963

AN ORDINANCE GRANTING TO THE CALIFORNIA-PACIFIC UTILITIES COMPANY, A CALIFORNIA CORPORATION, THE NON-EXCLUSIVE RIGHT, PRIVILEGE AND FRANCHISE TO LAY AND CONSTRUCT, AND TO THEREAFTER OPERATE AND MAINTAIN, REPAIR AND REPLACE A SYSTEM OF CONDUITS AND PIPE LINES, TOGETHER WITH SUCH FIXTURES OR APPURTENANCES AS THE GRANTEE, ITS SUCCESSORS, OR ASSIGNS MAY DEEM NECESSARY OR CONVENIENT THEREWITH, IN, UNDER, ALONG, OR ACROSS THE PUBLIC STREETS, HIGHWAYS AND ALLEYS OR OTHER PUBLIC PLACES IN THE CITY OF ELGIN, COUNTY OF UNION, STATE OF OREGON, FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS TO THE PUBLIC FOR LIGHT, HEAT, FUEL, POWER OR ANY OTHER LAWFUL PURPOSES, FOR A TERM OF TEN YEARS, AND DEFINING THE TERMS AND CONDITIONS OF SUCH FRANCHISE.

THE CITY OF ELGIN does ordain as follows:

Section 1. There is hereby granted to California-Pacific Utilities Company, a California corporation, its successors and assigns, the non-exclusive right, privilege and franchise to lay and construct, and to thereafter operate, and maintain, repair and/or replace a system of conduits and pipe lines, together with such fixtures and appurtenances as the grantee or its successors or assigns may deem necessary or convenient in connection therewith, in, under, along, or across all public streets, highways and/or alleys, or other public places in the City of Elgin, County of Union, State of Oregon, for the purpose of transmitting and/or distributing gas to the public for light, heat, fuel, power, or any other lawful purpose, for a term of ten (10) years from and after the effective date of this ordinance; all such installations, if practicable, to be laid in the alleys of the City that are open.

Section 2. The system of conduits, pipe lines, and other fixtures or appurtenances installed by grantee shall be laid or installed so that the top of said pipes shall be at a depth of not less than twenty (20)

inches below the established or official grade of the street, alley, parking, or other public thoroughfare in said City, and otherwise in accordance with the laws of the State of Oregon and the requirements and regulations of the Public Utilities Commissioner of the State of Oregon; provided, however, that in cases where grades have not been established such pipes shall be laid at the depth of not less than thirty (30) inches below the existing surface of such street, alley, parking, or other public thoroughfare in said City; and provided further, that the Common Council of the said City hereby reserves to itself, the Mayor, or other Agent, including the Public Utilities Commissioner of Oregon, its Agent, or successors the right to change or establish the grade of any of the streets, alleys, or other public thoroughfares in said City, and to require the grantee of this franchise, or its assigns, to lay or re-lay any of the said pipes or other equipment laid therein, to the proper depth, so that the same when so laid, shall conform to such grade or grades as changed or established. All pipes laid shall also be in conformity to the rules and regulations of the Public Utilities Commissioner of Oregon in that behalf.

Section 3. It is especially understood and agreed that the City of Elgin has already laid and will continue to lay, in the streets, alleys, and thoroughfares of said City, water mains and sewer mains, and may, during the life of this franchise, desire to lay and maintain pipes and other apparatus for other municipal projects. Upon notification by the City, the grantee will change the location of its pipe lines to conform with the necessary location or relocation of the main pipe lines of the City's municipal water, or sewer system, or other public works; and the City of Elgin, Oregon, agrees, on its behalf, that in making any new location or relocation of such works, it will, so far as the public interest justifies, take into consideration the location of the grantee's system as established or platted and filed with the City.

Section 4. It shall be lawful for and the right is hereby granted to the said California-Pacific Utilities Company, its successors, or assigns to make all needful excavation in any of the streets or alleys

of said City for the purpose of laying down, maintaining, repairing, replacing, and/or operating its conduits, pipe lines, or other fixtures or appurtenances installed for the purpose aforesaid.

Section 5. Whenever the said California-Pacific Utilities Company, a corporation, its successors, or assigns shall disturb any of the streets, alleys, avenues, roads, highways, thoroughfares, parkings, bridges, and sidewalks or either, of said City, for the purpose aforesaid; it or they shall restore the same to good order and condition as soon as practicable and without any unnecessary delay, at the cost and expense of grantee, its successors, or assigns; and on failure to do so, said City of Elgin shall have the right to fix a reasonable time within which such installation, replacement, or restoration shall be completed, not exceeding 30 days, nor less than 5 days; and upon the failure of said grantee, its successors, and assigns to make such installation, replacement, or restoration, said City of Elgin shall cause the same to be made at the expense of said grantee, its successors and assigns; and any expense thus incurred shall be a lien upon the property and apparatus of the said company, its successors, and assigns, located within the city of Elgin, Oregon, and shall be entered in the city lien docket, and be enforced in the same manner as city liens are enforced by the grading or otherwise improving of streets; provided, however, that no excavation or part of any excavation made for the purpose of laying pipes or other apparatus or repair of same, under this franchise, in the main public streets or highways shall be permitted to remain open longer than five days after the excavation is made, nor made without first notifying the City and provided further, that all excavations provided for herein shall be filled up and the streets, alleys, avenues, roads, highways, parkings, thoroughfares, bridges, and sidewalks, shall be fully and in every respect restored to their former condition.

Section 6. For the mutual convenience of the parties, and to assist the City in keeping and maintaining its records of pipes and other apparatus underground within the city limits, and in making its plans for the location, extension, or relocation of any mains used by it; the grantee

herein shall, prior to the commencement of the construction of its distribution system, file with the City a map showing the location and sizes of the pipes and mains in the several streets and thoroughfares of said City; which locations shall be at once examined and approved by the Mayor, or other agent, and the map filed with the City Recorder. Such map may be for the whole city or for any district or portion thereof in which it is immediately proposed to carry on construction work.

Section 7. Nothing in this ordinance shall be construed in any way to prevent the proper authorities of the City of Elgin, Oregon, from sewering, grading, paving, planking, replacing, repairing, or otherwise altering any of the streets, alleys, highways, or sidewalks of said City; but all such work shall be done, if practicable, so as not to obstruct, impair, or prevent the free use of said pipes or other appara-tus of the grantee, its successors, or assigns; and the installation of the works of the grantee shall in no way obstruct, impair, or prevent the free use of any underground works previously installed by any other franchise holder.

Section 8. In consideration of the privileges and franchise granted by this ordinance, the said California-Pacific Utilities Company, a cor-poration, for itself, its successors, and assigns, agrees to defend all action, and if damages be awarded, to pay all damages resulting from injuries sustained by reason of any excavation, installation of mains, or other appliances used by it, or under its exclusive control.

Section 9. The grantee herein, for itself, its successors, and assigns, covenants and agrees with the City of Elgin, a municipal corporation, that in consideration of the granting to it of the rights and privileges embraced in this ordinance, it will pay to the City of Elgin, Oregon, two per cent (2%) of the gross annual revenues derived from service to its patrons hereafter located within the City of Elgin, Oregon.

Said percentage shall be paid in annual installments no later than sixty (60) days after the end of the period covered by the payment, and that it will furnish the City at the end of each such period, a verified statement of its said gross earnings, and that it will allow the inspection of its books at all reasonable hours upon demand of the City.

In further consideration of this franchise, the grantee will, with its acceptance, file with the City a surety bond in the amount of $1,000.00, conditioned upon the faithful performance of the terms and conditions of this ordinance during the period of its existance.

Section 10. Every charge, rate, fee, or compensation made, or demanded by the grantee of this franchise for any service rendered or to be rendered, shall be just, fair and reasonable. The Public Utilities Commissioner of Oregon shall have the power to determine what rates, charges, fees, and compensations made, charged, or demanded by said corporation, are unjust, unreasonable, insufficient, or unjustly discriminatory, or preferential; and to fix those which are just, reasonable, and sufficient.

Section 11. The rights, privileges, and franchises hereby granted to said California-Pacific Utilities Company, a corporation, its successors, and assigns shall continue and be in full force and effect for the full period or ten (10) years from and after the taking effect, including acceptance hereof, and are hereby granted subject to all the terms, conditions, and restrictions of the Charter of the City of Elgin, Union County, Oregon, now in effect, except so far as such terms may be modified or superseded by the Constitution or Laws of the State of Oregon, or of the United States.

Section 12. This ordinance shall be inoperative unless accepted in writing by the grantee, and filed with the City Recorder of Elgin within forty day after the passage of this ordinance.

Passed by the Common Council of the City of Elgin in Union County, Oregon, the 8th day of October, 1963.

Approved this 8th day of October, 1963

Mayor of the City of Elgin

Recorder of the City of Elgin, Oregon